

Issue: Statute of Limitations Application

2. Taxpayer filed an amended ST-1X, Amended Sales and Use Tax Return, for the period of May 1993. This return was filed in November, 1996.

Conclusions of Law:

Taxpayer has filed an amended sales/use tax return for May 1993 and requested a refund or credit of \$789.00. Taxpayer contends this credit is due because it has refunded tax improperly collected on exempt purchases and has provided a copy of the check issued to this customer. Taxpayer claims that its initial request for a cash refund was in April 1996, although the record indicates that the May 1993 amended return was not filed with the Department until November 1996.

Section 6 of the Retailers' Occupation Tax Act ("ROTA") provides guidance in determining whether claims for credit are timely filed. It provides in pertinent part:

However, as to any claim for credit or refund filed with the Department on and after each January 1 and July 1 no amount of tax or penalty or interest erroneously paid (either in total or partial liquidation of a tax or penalty or amount of interest under this Act) more than 3 years prior to such January 1 and July 1, respectively, shall be credited or refunded, except that if both the Department and the taxpayer have agreed to an extension of time to issue a notice of tax liability as provided in Section 4 of this Act, such claim may be filed at any time prior to the expiration of the period agreed upon.

35 **ILCS** 120/6; See also, 86 Admin. Cod ch. I, Sec. 130.1501.

The statute clearly indicates that in order to timely file its May 1993 amended return, the taxpayer must have filed it on or before June 30, 1996. The administrative record reflects that the taxpayer filed its May 1993 amended return in November of 1996. The date of any informal claim requests are irrelevant, as the statute specifically requires that claims for credit/refund shall contain certain information and be filed upon forms provided by the Department. See, 35 **ILCS** 120/6a. Thus, taxpayer's claim for refund is barred by the statute of limitations.

Wherefore, for the reasons stated herein, the Tentative Denial of Claim should be finalized.

Christine O'Donoghue
Administrative Law Judge